

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD REPEALING, RENUMBERING, AMENDING, REPEALING AND RECREATING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.001(19m); to renumber NR 10.001(1), (1c), (1h), (1k), (1L), (1n), (1t) and (2); to amend NR 1.16(intro.), 10.001(3t), 10.01(2)(c)8. and (3)(ez)1.a. and d., 10.06(8)(b) and (note), 10.09(1)(a)2., (c)1.b., d. and 2., 10.106(3) and (note), 10.12(3)(intro.), (5)(a) and (note) and (7), 10.13(1)(b)6. and 9., 10.145(4)(c), 10.25(2)(a)1. and 2., 10.275(1)(b)1., 12.16(8)(b), and 19.13(4) and (5); repeal and recreate 10.05(1)(note), 10.13(3)(c) and 10.275(2)(b); and create NR 10.001(1p) and (note), (5s) and (note), (8m), (10s), (18m), (25c) and (note), (25k) and (26m), 10.22(3)(f), (g) and (h), 10.25(4)(f) and (note) and 12.10(5) relating to hunting and trapping.

WM-02-04

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation: Statutes that authorize the promulgation of this rule order include sections 29.014, and 227.11, Stats. These sections grant rule making authority to the department to establish and maintain open and closed seasons for hunting and that all rules promulgated under this authority are subject to review under ch. 227, Stats.

Statutes Interpreted and Explanation: In promulgating this rule sections, 29.181, 29.193(2), 29.347(3) and (5), 29.885(4m) and 167.34(4)(cg), Stats., have been interpreted as allowing the department the authority to issue permits for controlling deer populations through the issuance of antlerless deer permits, issue and establish conditions for disabled permits, draft rules relating to firearm use and hunter participation while conducting nuisance animal removal, and create rules relating to transportation and possession of vehicle-killed deer.

Related Statute or Rule: Annually the Bureau of Wildlife Management submits corrections and clarifications to NR ch. 10, 12 and 19. This change is necessary to assure that the administrative code is consistent with new statutes and administrative rules promulgated in the previous year, and to inconsistencies that may arise as a result of new technologies, hunter interests or hunting and trapping methods. Additionally, some changes are necessary to organize the existing administrative code sections to allow for ease of reference and reading.

Plain Language Rule Analysis: This housekeeping rule order includes rule changes that are minor and non-controversial in nature. They eliminate and update outdated administrative code language including definitions and citations. They also clarify existing rules and in some cases simplify hunting and trapping rules and regulations. Specifically, this rule order defines a number of hunting trapping terms previously missing or which were placed in other areas of the administrative code. This rule eliminates references to tagging and license language made obsolete with the automated licensing system. It simplifies and clarifies firearm restrictions for turkey, deer, and bear hunting. This rule order also clarifies the use of crossbows for resident senior citizens, clarifies the code relating to trap placement and sets, and updates deer hunting rules for the Sandhill wildlife area. Finally, the rule corrects an omission relating to the sunset dates for small game and waterfowl hunting in state parks and clarifies the procedure for an individual to possess spotted deer hides.

Federal Regulatory Analysis: Provided state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of Federal statutes and regulations, regulation of hunting and trapping of native species has been delegated to state fish and wildlife agencies. Additionally, none of the proposed rules exceed the authorities granted the states in 50 CFR 10.

State Regulatory Analysis: These housekeeping rule changes are minor and non-controversial in nature and therefore, do not represent policy or significant rule changes that may differ from surrounding states. All surrounding states have regulations and rules in place for the management of wild upland, migratory and trapping species, however these proposed rule changes to the Wisconsin Administrative code are not relevant to or comparable to any known similar housekeeping initiatives in our surrounding states.

Summary of Factual Data and Analytical Methodologies: This rule order is based solely on the need to correct inconsistencies created through the promulgation of other rules and statutes and to serve as a vehicle to provide clarification to existing code.

Anticipated Private Sector Costs: These rules, nor the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Businesses: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule.

Section 1. NR 1.16 (intro.) is amended to read:

NR 1.16 Furbearers. (intro.) For the purposes of this section, furbearers are muskrat, mink, weasel, beaver, fisher, otter, skunk, raccoon, fox, coyote, bobcat and opossum. The furbearer management program has the following essential needs and actions:

Section 2. NR 10.001(1) to (2) are renumbered NR 10.001 (1t), (2), (1), (1d), (1h), (2e), (2m) and (2s), respectively.

Section 3. NR 10.001(1p) and (note) are created to read:

NR 10.001(1p) "Aggregate daily bag limit" has the meaning given in 50 CFR 20.11(c)(3).

Note: 50 CFR 20.11(c)(3) defines "aggregate daily bag limit" as the maximum number of migratory game birds permitted to be taken by one person in any one day during the open season when such person hunts in more than one specified geographic area and/or for more than one species for which a combined daily bag limit is prescribed. The aggregate daily bag limit is equal to, but shall not exceed, the largest daily bag limit prescribed for any one species or for any one specified geographic area in which taking occurs.

Section 4. NR 10.001(3t) is amended to read:

NR 10.001(3t) "Bonus deer hunting permit" for purposes of s. 29.181, Stats., means any additional carcass tags issued under s. NR 10.01 (3) (ez), any antlerless deer permits issued under s. NR 10.104 (6) (a) for gun deer season zone B as described in s. NR 10.01 (3) (e), and any antlerless permits issued under s. NR 10.104 (8) (c) ~~and~~ (d) and (e).

Section 5. NR 10.001(5s) and (note) are created to read:

NR 10.001(5s) "Class B permit" means a permit as defined in s. 29.193(2)(c)2., Stats.

Note: Section 29.193(2)., Stats., defines a "Class B permit" as a permit issued to an applicant who has a temporary disability which restricts mobility or ambulation due to illness, injury or operative procedures and who either has a leg, hip or back, or any part thereof, casted by a licensed physician due to a fracture or has leg, hip or back surgery.

Section 6. NR 10.001(8m) is created to read:

NR 10.001(8m) "Drowning set" means any trap set capable of capturing an animal and drowning the captured animal.

Section 7. NR 10.001(10s) is created to read:

NR 10.001(10s) "Green skin" means a skin that has not been removed from the carcass of a dead animal and a skin which has been removed but has not been fleshed, stretched and dried or tanned.

Section 8. NR 10.001(18m) is created to read:

NR 10.001(18m) “Non-drowning set” means any trap set that is capable of capturing an animal and not capable of drowning the captured animal.

Section 9. NR 10.001(19m) is repealed.

Section 10. NR 10.001(25c) and (note) are created to read:

NR 10.001(25c) “Small game” means all varieties of wild mammals and birds for which there is an open season, but does not include deer, moose, elk, bear, wild turkey or endangered, threatened or protected species of game. For the purpose of s. 167.31(4)(e), Stats., small game does include wild turkeys.

Note: 167.31(4)(e) Subsection (2) (d) does not apply to a person who is legally hunting small game with a muzzle-loading firearm or with a shotgun loaded with shotshell or chilled shot number BB or smaller, if the surface of the highway or roadway is anything other than concrete or blacktop.

Section 11. NR 10.001(25k) is created to read:

NR 10.001(25k) “Steel jawed trap” means a trap, constructed of metal, designed to catch an animal by the foot, but does not include enclosed trigger traps or body gripping traps of the conibear type.

Section 12. NR 10.001(26m) is created to read:

NR 10.001(26m) “Under ice set” means any trap set made under the ice.

Section 13. NR 10.01(2)(c)8. is amended to read:

NR 10.01(2)(c)8. Pheasant stamp. No person may hunt pheasants in the pheasant management zones established by s. NR 10.34 without a valid state pheasant stamp approval required under s. 29.191, Stats., ~~with the signature of the licensee written in ink across its face and firmly affixed by its own adhesive to the back of a valid small game or sports license~~ unless the person is carrying a valid conservation patron license, senior citizen recreation card, free military small game license or first year hunter education certificate.

Section 14. NR 10.01(3)(ez)1.a. and d. are amended to read:

NR 10.01(3)(ez)1.a. A 4-day antlerless only deer season allowing the use of bows and guns beginning on the Thursday nearest October 27 and continuing for 4 consecutive days. Allowable types of guns are those authorized on the first day of the regular gun deer season under ~~s. NR 10.01 (3) par. (e) or (et)~~. Antlerless deer may be tagged with the back tag issued with each deer license, a special permit under this subd. 1. b., or bonus permits issued under s. 29.181, Stats. This subdivision paragraph does not apply to state parks and state park deer management units.

d. If after 2 consecutive seasons, as described in this subd. 1. a. and am., the department determines a third season, as described under this subd. 1. a. and am., is unlikely to reduce the deer population to within 20% of the overwinter population goal established in s. NR 10.104 for the same deer management unit or units in the subsequent year, hunters shall harvest or tag an antlerless deer in that unit or units with either a bow or a gun during any deer season or with an agricultural shooting permit, before they may harvest a buck with either weapon in that unit or units. One antlerless deer is required to authorize harvest of one buck in that unit or units, or in state parks with gun deer seasons that are within or adjoining these units, for each archery and gun deer license. Deer harvested as described in this paragraph shall be transported in accordance with s. NR 10.105 (3). The gun deer season shall continue to include the ~~time periods~~ hunts specified in subdivision paragraphs a. and am.

Section 15. NR 10.05(1)(note) is repealed and recreated to read:

Note: The exceptions provided in s. 167.31(4)(e), Stats., allow any person who is legally hunting small game with a muzzle-loading firearm or shotgun loaded with shotshells containing shot size BB or smaller, to hunt within 50 feet of the roadway center, if the roadway is surfaced with anything other than concrete or blacktop. Additionally, Class A and B disabled hunting permit holders may also hunt within 50 feet of certain roadways under conditions listed in s. 167.34(4)(cg), Stats.

Section 16. NR 10.06(8)(b) and (note) are amended to read:

NR 10.06(8)(b) *Gun deer season.* Hunting hours established in sub. (5) shall apply statewide to bow and gun hunters pursuing any species, except migratory game birds listed in s. NR 10.01 (1), during the ~~regular gun deer season~~ dates established in s. NR 10.01 (3) (e)1.

Note: The deer hunting with firearms hours do not apply to persons hunting coyote, fox, raccoon or other wild animals for which no closed season has been established during the muzzle-loader season ~~or~~ an extended gun deer season or the extended gun season dates following the 9-day deer gun season in a metro deer management unit.

Section 17. NR 10.09(1)(a)2. is amended to read:

NR 10.09(1)(a)2. 'Size.' Possess or have in control while hunting, shells containing shot larger than no. BB during the period commencing on June 1 and ending 48 hours following any deer season or hunt established in s. NR 10.01 (3) (e), (es), (et) or (ez), whichever season is later, except during the open season established in s. NR 10.01 (1) (b), (c), ~~(d)~~ and (g) when nontoxic shot size BBB and T may be used for hunting migratory game birds listed in s. NR 10.01 (1) (b), (c) and (g).

Section 18. NR 10.09(1)(c)1.b. and d. are amended to read:

NR 10.09(1)(c)1.b. Hare, rabbit, squirrel, raccoon, fox, coyote, bobcat and unprotected wild animals may be hunted with handguns ~~and or~~ pellet guns of ~~.177~~ .17 caliber or larger. Handguns shall have a minimum barrel length of 4 inches measured from the muzzle to the firing pin with the action closed.

d. Crossbows may be used by disabled individuals issued a permit under ss. 29.171 (4) and 29.193 (2), Stats., which authorize the use of a crossbow and by resident senior citizens pursuant to s. 29.171(2m), Stats., to hunt small game, bear, deer, elk and wild turkey with an appropriate license, permit and tag if required.

Section 19. NR 10.09(1)(c)2. is amended to read:

NR 10.09(1)(c)2. 'Deer or bear hunting.' Hunt any deer or bear with any ~~.22 rim-fire, 5 mm-rim-fire rifle, .17 caliber~~ any center-fire rifle less than .22 caliber, any .410 bore or less shotgun or with ammunition loaded with full metal jacket, nonexpanding type bullets.

Section 20. NR 10.106(3) is amended to read:

NR 10.106(3) REGISTRATION TAGGING. Upon verification of license and deer hunting permit information, the station operator shall do all of the following:

- (a) Complete and retain the registration ~~portion of the hunter's license;~~ stub.
- (b) Lock a registration tag to the carcass or part of the deer or bear; ~~and,~~
- ~~(c) Remove the validation portion of the carcass tag.~~

Note: The ~~portion of the~~ carcass tag ~~remaining~~ attached to the animal contains a number corresponding to the registrant's hunting license and backtag.

Section 21. NR 10.12(3) (intro) is amended to read:

NR 10.12(3) OPEN WATER RESTRICTIONS. (intro) No person may hunt waterfowl in open water from or with the aid of any blind which may include any boat, canoe, raft, contrivance or similar device except:

Section 22. NR 10.12(5)(a) and (note) are amended to read:

NR 10.12(5)(a) *Guns and devices.* With a trap, snare, cable restraint, net, rifle, pistol, crossbow other than as authorized in s. ss. 29.171 and 29.193(2)(cr)2. and 3., Stats., swivel gun, punt gun, battery gun, machine gun, fishhook, poison, drug, explosive, stupefying substance or shotgun of a larger bore than a no. 10 gauge.

Note: The ~~s. ss. 29.171 and 29.193(2)(cr)2. and 3., Stats.,~~ reference authorizes ~~references authorize~~ disabled persons under department permit and resident senior citizens to hunt any migratory bird on which an open season is established in s. NR 10.01 (1) with crossbows meeting s. 29.171, Stats., standards.

Section 23. NR 10.12(7) is amended to read:

NR 10.12 (7) DRESSING. No person may completely dress any migratory game bird ~~and then transport the bird from while in the field or during transportation from the field.~~ The head or one fully feathered wing shall remain attached to all migratory game birds ~~being transported~~ while in the field or during transportation from the field to the person's permanent abode or a preservation facility.

Section 24. NR 10.13(1)(b)6. is amended to read:

NR 10.13(1)(b)6. 'Trap, snare and cable restraint use.' Set, place, operate or possess while on or adjacent to waters of this state, any trap other than a ~~steel-jawed~~ steel jawed trap, live trap, body gripping trap of the conibear type, snare other than that defined in s. NR 10.001 (25e) or cable restraint as defined in s. NR 10.001(5g) for the purpose of taking, capturing, or killing furbearing animals. Live traps shall be constructed so that not more than one animal can be taken or captured in any single trap setting.

Section 25. NR 10.13(1)(b)9. (title) is amended to read:

NR 10.13(1)(b)9. (title) ~~'Steeljawed Steel jawed traps'~~ 'Steel jawed Steel jawed traps' ~~It shall be unlawful for any~~ No person to may set, place or operate any steel jaw trap with a spread width of more than 8 inches.

Section 26. NR 10.13(3)(c) is repealed and recreated to read:

NR 10.13(3)(c) *Set tending interval.* 1. Non-drowning sets shall be tended at least once each day and any animal captured shall be removed from the set.
2. Drowning sets shall be tended within a 4-day period following the last tending of the set. Any animal captured shall be removed from the set. Water levels shall be monitored to ensure effective drowning sets.
3. Under ice sets are exempt from the checking periods.

Section 27. NR 10.145(4)(c) is amended to read:

NR 10.145(4)(c) *Tag retention.* The pelt and registration tag shall remain attached to the pelt until removed by a fur dresser or taxidermist at time of preparation.

Section 28. NR 10.22(3)(f), (g) and (h) are created to read:

NR 10.22(3)(f) *Deer hunting rule compliance.* Except as provided otherwise in this section or in a permit issued under this section, the permittee shall comply with all hunting, tagging, transportation and registration rules specified under ch. NR 10 and ch. 29, Stats. Permittees who fail to comply with these rules shall be subject to the penalty applicable to the appropriate ch. NR 10 or ch. 29, Stats., violation.

(g) *Additional restrictions.* The department may list additional restrictions on a permit and the permittee shall comply with all additional restrictions.

(h) *Exemptions.* The department may exempt a person by permit from any of the requirements of ch. NR 10 or ch. 29, Stats.

Section 29. NR 10.25(2)(a)1. and 2. are amended to read:

NR 10.25(2)(a)1. Validate the license and carcass tag by tearing or cutting the carcass tag in the manner indicated by the department. Failure to follow the validation procedure in this manner invalidates the license and carcass tag.

2. ~~Completely attach and seal~~ Attach the carcass tag, ~~utilizing its own adhesive, around~~ to the leg of the turkey using a wire, string or similar fastener.

Section 30. NR 10.25(4)(f) and (note) are created to read:

NR 10.25(4)(f) From or across a highway or within 50 feet of the center of the roadway, pursuant to s. 167.31(4)(e), Stats.

Note: For the purpose of s. 167.31(4)(e), Stats., small game does include wild turkeys.

Section 31. NR 10.275(1)(b)1. is amended to read:

NR 10.275 (1)(b)1. Migratory game bird hunting for the species specified in s. NR 10.01 (1) is allowed in Governor Dodge, Mill Bluff and Newport state parks in 2003, 2004 and 2005 from November 1 through December 15 or until the seasons established in s. NR 10.01 (1) conclude, whichever occurs first.

Section 32. NR 10.275(2)(b) is repealed and recreated to read:

NR 10.275(2)(b) *Hunting hours*. 1. The hunting hours for pursuing small game at Governor Dodge, Mill Bluff, Mirror Lake and Newport state parks shall be the same as the hours established in s. NR 10.06 (5) except that hunting hours will close at 12:00 noon daily.

2. The hunting hours for pursuing migratory game birds at Governor Dodge, Mill Bluff and Newport state parks shall be the same as the hours established in s. NR 10.06 (5) except that hunting hours shall close at 12:00 noon daily.

3. The hunting hours for pursuing migratory game birds at Mirror Lake state park shall be the same as the hours established in s. NR 10.06 (5).

Section 33. NR 12.10(5) is created to read:

NR 12.10(5) *License requirements*. Municipalities, landowners, lessees or occupants that are not required to obtain written authorization under sub. (1)(b) to remove wild animals causing damage or that they consider to be a nuisance, are also not required to possess a valid hunting or trapping license when carrying out removal activities.

Section 34. NR 12.16(8)(b) is amended to read:

NR 12.16(8)(b) Except as provided under par. (c), all participants shall comply with the firearm type restrictions applicable to the permittee's land during the gun-deer season specified under s. NR 10.01 (3) (e) and (et).

Section 35. NR 19.13(4) and (5) are amended to read:

NR 19.13(4) Possession of vehicle-killed deer shall be limited to 90 days. Pursuant to s. 29.347(3) and (5), Stats., if the vehicle-killed deer is a spotted fawn or a deer with antlers in velvet and the person who possesses the deer wants to retain the spotted hide or velvet antlers for more than 90 days, the person shall contact the department for written authorization to retain the spotted hide or velvet antlers before the end of the 90 day period. Written authorization to possess spotted hides and velvet antlers from a vehicle-killed deer does not allow sale or transfer to another.

(5) ~~Spotted fawns and white~~ White deer may not be released by the department.

Section 36. Effective Date. This rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Section 37. Board Adoption. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on June 23, 2004.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)